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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Association for Progressive Communications, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[2 February 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Internet Freedoms in the Occupied Palestinian Territory

The Association for Progressive Communications (APC) and 7amleh - The Arab Centre for Social Media Advancement submit this statement ahead of the Human Rights Council 37th session to express our grave concern regarding the crackdown on freedom of expression and infringements on privacy online in Palestine.

Recent years have witnessed a sharp rise in attacks on the right to free speech and privacy online for Palestinian citizens of Israel, and Palestinians in the West Bank and Gaza. Digital rights violations are perpetrated at the hands of all three governments: the Israeli government, the Palestinian Authority (PA) and the de-facto government of Hamas in Gaza. In addition, social media companies, whose policies have called into question their neutrality, are complying with Israel in censoring Palestinian voices. Online platforms, particularly social media platforms, have become a new arena of political confrontation for the conflict as well as a place to discuss internal issues within the Palestinian community. It is crucial that the right to freedom of expression add privacy, as stipulated in UN conventions, are upheld and respected for Palestinians.

Freedom of Expression:

The most basic level of internet freedom in any society is directly linked to access to information, which is imperative to establishing a fair society and an informed citizenry, constituting a key pillar of a democratic society. Access to information is also a fundamental prerequisite for the empowerment of communities through freedom of expression, engaging with civil society and public debates, and advocating for certain causes. Despite the fact that freedom of expression is being compromised throughout various parts of the world, it still remains to be an internationally recognised and guaranteed right. The UN Human Rights Council has affirmed in various resolutions that "the same rights that people have offline must also be protected online" including freedom of expression and the right to privacy, which means freedom from censorship and online surveillance . The systematic crackdown on these rights is particularly pronounced in Palestine against the backdrop of a decades long occupation, where internet freedoms are being compromised at the local, regional and global level with space for online dissent or mobilization increasingly shrinking, paving the way for severe punishment such as torture and imprisonment for their expression online.

Israeli Crackdown on the Use of Social Media Platforms and Access to Internet:

In September 2016, the Israeli Public Justice Minister, Ayelet Shaked, announced that close cooperation between the Israeli government and the social media giant Facebook will take place to tackle "incitement" online. This involved encouraging social media networks to remove all content that Israel deems "incitement". The term incitement has been vaguely defined by Israel, but can include discourse and rhetoric that resists or criticises Israeli policy. Throughout 2017, the head of the cyber unit at Israel's Attorney's Office reported that 85% of the Israeli government's requests to remove content were accepted in stark contrast to 70% in 2016.[1] The cyber unit, operating under the Israeli Ministry of Justice, works in close cooperation with both Facebook and Twitter to censor and remove online content that is perceived as "inciteful". According to Adalah, the Legal Center for Arab Minority Rights, the Unit removed 1,554 cases of online content in 2016, constituting a grave violation to Israeli Basic Law that states "Nothing in the law allows state authorities to censor content based solely on an administrative determination". This censorship undertaken by the state there amounts to an illegal offense.[2]

In addition to the reasons stated above, Israel has also developed a policing system that uses algorithms to develop profiles of what Israel views as a likely suspect for an attack. Through monitoring thousands of accounts, the system searches for words related to the conflict as such Zionist or Jerusalem as well as friends, relatives co-workers or

1Ctech. (2017 29 Dec). Israel Official Reports Increased Cooperation on Removing Content from Social Media.https://www.calcalistech.com/ctech/articles/0,7340,L-3728439,00.html

2Adalah - The Legal Centre for Arab Minority Rights (14 September 2017). "Israel's 'Cyber Unit' operating illegally to censor social media content". https://www.adalah.org/en/content/view/9228

acquaintances of recently killed or imprisoned Palestinians.[3] Rather than identifying suspects based on evidence of planned or committed attacks, the algorithm based system targets suspects based on predictions.[4] As a result, Israel has detained over 200 around 800 Palestinians because of content critical of Israeli policy uploaded online.[5] This constitutes a grave violation to the right to privacy, as outlined in the universal framework of human rights law and specifically in the International Covenant on Civil and Political Rights, which stipulates that "no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence" and affirmed in the UN resolution of 34/7.[6]

Such intrusion into Palestinian private life is facilitated by the fact that Israel controls the entire telecommunications infrastructure used by Palestinian companies and internet service providers. Despite the fact that Palestinians are granted "the right to build and operate separate and independent communication systems and infrastructures including telecommunication networks, a television network and a radio network", under the Oslo Agreements, no independent Palestinian ICT infrastructure has been allowed to develop since due to a number of Israeli restrictions. These include restrictions on the use of frequencies, Israeli control over the import and export of equipment and technology between Palestinian territories and unauthorised Israeli mobile companies operating in Palestinian territories, putting Palestinian operators at a huge disadvantage.[7]

Palestinian Authority Electronic Crimes Law (2017):

Given the antiquated and obsolete nature of the Jordanian Penal Code laws that have continued to be enforced in the West bank since 1967, which fail to address modern infringements such as cyber-crimes, the PA adopted the Electronic Crimes Law through a presidential decree in July 2017. This law is in flagrant violation of Article 19 of the Palestinian Basic Law, which stipulates "Freedom of opinion may not be prejudiced" and Article 27, "Censorship of the media shall be prohibited" in addition to Article 19 of the International Covenant on Civil and Political Rights (ICCPR).[8] Although the law has been passed under the pretext of fighting crimes on the net, such as sextortion, hacking, blackmail, impersonation etc. the law has been drafted in such a manner that curbs freedom of expression, silences political opponents and limits online access. Al Haq, in a letter addressed to the UN Special Rapporteur on Freedom of Opinion and Expression, noted how the law was "*part of efforts to narrow civil, political, and social space*".[9] Just weeks following the formal introduction, five journalists were arrested for writing Facebook posts critical of the PA, whilst there have been no arrests on claims of fraud or sextortion. Moreover, over twelve news and media websites were blocked by the Attorney General in June.[10] raising serious questions about the actual agenda of the new legislation, which is currently being enforced with complete disregard for Palestinian civil society's integration into drafting the law.

3Open Democracy. (4 October 2017). The Israeli Algorithm Criminalising Palestinians for Online Dissent. https://www.opendemocracy.net/north-africa-west-asia/nadim-nashif-marwa-fatafta/israeli-algorithm-criminalizing-palestinians-for-o

4Al Shabaka - The Palestinian Policy Network. (23 October 2017). Surveillence of Palestinians and the Fight for Digital Rights. https://al-shabaka.org/briefs/surveillance-palestinians-fight-digital-rights/

5Haaretz. (31 May 2017). How Israel Jails Palestinians Because They Fit the Terrorist Profile. https://www.haaretz.com/israel-news/.premium.MAGAZINE-israel-jails-palestinians-who-fit-terrorist-profile-1.5477437

6United Nations Human Rights Office of the High Commissioner. The Right to Privacy in the Digital Age. http://www.ohchr.org/EN/Issues/DigitalAge/Pages/DigitalAgeIndex.aspx

77amleh - The Arab Centre for Social Media Advancement. (22 January 2018). Internet Freedoms in Palestine: Mapping of Digital Rights Violations and Threats. (http://7amleh.org/2018/01/22/7amleh-publishes-innovative-research-on-internet-freedoms-in-palestine-mapping-of-digital-rights-violations-and-threats/

8The 2003 Amended Palestinian Basic Law. Ahttps://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law

9Al Haq. (03 August 2017). Letters Sent to UN Special Rapporteur on Palestine's Cyber Crimes Law. http://www.alhaq.org/advocacy/topics/palestinian-violations/1131-letters-sent-to-un-special-rapporteur-on-palestines-cyber-crimes-law

10Ibid. http://www.alhaq.org/advocacy/topics/palestinian-violations/1131-letters-sent-to-un-special-rapporteur-on-palestines-cyber-crimes-law

We would like to draw the Council's attention to the recent unlawful arrests perpetrated by the PA who arrested human rights defender, Issa Amro, and six journalists who work for Hamas-affiliated news outlets. In the two cases, individuals in question were charged under Article 20 of the new law with "publishing news that would endanger the integrity of the Palestinian state, the public order or the internal or external security." Another striking example is Palestinian journalist Thaher al-Shamali who was arrested by the Preventative Security forces in Ramallah in June 2017. He was charged with "insulting higher authorities and causing strife" with regards to a critical article he published online. He claimed that following his release he was threatened over the phone and warned not "to post opinions critical of the government on Facebook."[11]

CONCLUSIONS:

Through monitoring Palestinian accounts on a mass and intrusive scale, carrying out arbitrary arrests and increasingly relying on partnerships with social media giants, Israel is extending its occupation into the digital sphere. This is exacerbated by the PA's imposition of a police like state in the West Bank through the systematic attack on freedom of expression. It is crucial that Palestinians, a subjugated and oppressed people, have their voices amplified to enrich their contribution to global debate and expose abuses to foster democratic and civic participation. Right to freedom of expression and privacy offer the premises for these enjoyed rights.

RECOMMENDATIONS:

To the Government of Israel:

- Formalise commitment to ensuring transparency and independent oversight on agreements made with social media companies.
- Commit to respecting the right to privacy online in accordance with Article 7 of The Israeli Basic Law for Human Dignity and Liberty (1992).
- Allow the development of an independent Palestinian ICT infrastructure as outlined in the Oslo Agreements.
- Respect and uphold the rights of all Palestinians to freedom of opinion and expression and to privacy under the International Covenant on Civil and Political Rights (ICCPR).

To the Palestinian Authority:

- Ensure commitment in upholding the Palestinian Basic Law, namely Article 19 and Article 27.
- Halt arrests carried out and release those detained on the premise of the Electronic Crimes Law.
- Consider further amendments to the Electronic Crimes Law to ensure its compliance with international standards and norms.

To the Human Rights Council:

- The Human Rights Council and the UN special rapporteurs should continue their monitoring of violations of human rights in the digital sphere and emphasise them in thematic reports, statements, and resolutions.
- Support States, particularly Israel, the PA and Hamas to improve internet policies to ensure that human rights for Palestinians are respected online.

APC is a global organisation and network of members that work to empower and support organisations, social movements and individuals in and through the use of information and communication technologies (ICTs) to advance

11Amnesty International. (23 August 2017). Public Statement: State of Palestine: Alarming attack on Freedom of Expression file:///Users/chloepaterson/Downloads/MDE1569832017ENGLISH.pdf

human rights, social justice, gender equality and sustainable development. APC has 55 organisational members and 30 individual members active in 75 countries, mostly in the global South.

7amleh - The Arab Centre for Social Media Advancement is a Palestinian NGO aimed at enabling Palestinian civil society to effectively utilize tools of digital advocacy through professional capacity building, defending digital rights and building influential digital media campaigns.